

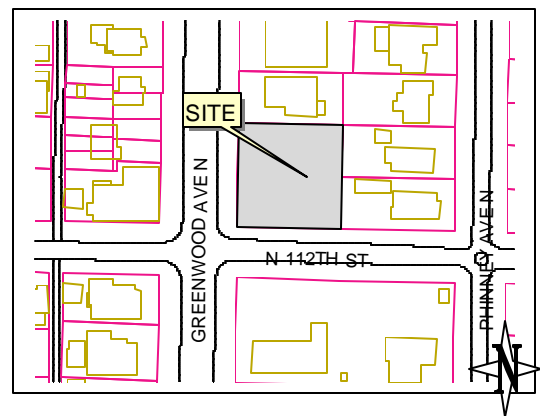


City of Seattle

Gregory J. Nickels, Mayor
Department of Planning and Development
D. M. Sugimura, Director

CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR OF
THE DEPARTMENT OF PLANNING AND DEVELOPMENT

Application Number: 3004327
Contact Person: Craig Wilson
Service Provider: ClearWire
Address of Proposal: 11200 Greenwood Ave N



SUMMARY OF PROPOSED ACTION

Land Use Application to allow a new minor communication utility (Clearwire LLC) with five antennas (three panel and two microwave dishes) on the roof of an existing apartment building. The equipment cabinet will also be located on the roof.

The following approvals are required:

Administrative Conditional Use - To allow a minor communication utility on an existing apartment building in a Multi-family zone.

SEPA - Environmental Determination - Chapter 25.05, Seattle Municipal Code

SEPA DETERMINATION ☐ EXEMPT ☐ DNS ☐ MDNS ☐ EIS

☒ DNS with conditions

☐ DNS involving non-exempt grading or demolition
involving another agency with jurisdiction.

BACKGROUND DATA

Site Description

The subject site is rectangular shaped and developed with an apartment building. The site slopes downward from east to west and is located within a Lowrise 3 (L-3) zone. The site is a corner lot with North 112th Street abutting to the south and Greenwood Avenue Abutting to the west. The site slopes downward from northeast to southwest.

Proposal Description

The applicant proposes a new minor communication utility (Clearwire LLC) with three panel antennas and two microwave dishes on the roof of an existing apartment building. The equipment cabinet will also be located on the roof. The antennas, dishes and equipment cabinet are proposed to be located on top of the stair penthouse. The apartment building is approximately 44-foot 6-inches in height above grade with the stair penthouse extending an additional two feet more. The antennas, dishes and equipment cabinet will be completely enclosed within a camouflaging shroud which will extend an additional 6 feet 10 inches above the roofline for a maximum height of 51 feet and 4 inches above grade. The shroud will give the visual appearance of being an extension to the existing stair penthouse and is designed to match the general appearance of the penthouse. A GPS antenna will extend above the shroud.

Surrounding Area Description

The properties directly abutting Greenwood Avenue North to the west and east, forming a corridor along Greenwood avenue North, are zoned L-3 and developed primarily with multi-family structures. The areas further to the west and east of this corridor are zoned Single-Family 7200 (SF 7200) and developed primarily with single-family homes.

Public Comment

The application was deemed to be complete on May 26, 2006 and a notice of application was sent on June 1, 2006. The public comment period ended on June 14, 2006. No public comments were received through the public notice process.

ANALYSIS AND CRITERIA - ADMINISTRATIVE CONDITIONAL USE

Section 23.57.010.C of the Seattle Municipal Code (SMC) provides that a minor communication utility may be permitted in a Single-Family Zone with the approval of an administrative conditional use permit when the establishment or expansion of a minor communication utility, except on lots zoned Single Family or Residential Small Lot and containing a single family use residence or no use subject to the requirements of this section enumerated below. All supporting documentation referenced within this decision can be found in MUP file no. 3004327.

1. *The proposal shall not be substantially detrimental to the residential character of nearby residentially zoned areas, and the facility and the location proposed shall be the least intrusive facility at the least intrusive location consistent with effectively providing service. In considering detrimental impacts and the degree of intrusiveness, the impacts considered shall include but not be limited to visual, noise, compatibility with uses allowed in the zone, traffic, and the displacement of residential dwelling units.*

Director's Rule 8- 2004 clarifies terms and provisions regarding minor communication facilities in all zones which are directly applicable in this instance. The terms "least intrusive location", "least intrusive facility" and "effectively providing service" are defined as the following:

"Effectively providing service" means the level of service preferred by the applicant. The preferred level of service will not be evaluated by the Director, but will instead be used as a comparison in the evaluation of potential alternate locations for the proposed minor communication utility.

"Least intrusive location" means that, except deviations as allowed by the Director, the location of the proposed minor communication utility must comply with the following order of preference. Industrial zones are the least intrusive location, and Single Family and Residential Small Lot zones (non-arterial) are the most intrusive locations:

- a. Industrial zones*
- b. Downtown zones*
- c. Commercial zones*
- d. Neighborhood Commercial zones*
- e. Multifamily zones (arterial)*
- f. Multifamily zones (non-arterial)*
- g. Single Family and Residential Small Lot zones (arterial)*
- h. Single Family and Residential Small Lot zones (non-arterial)*

The Director may allow a deviation from the order of preference, provided that the Director finds that such a deviation would result in a less intrusive location than would otherwise be provided under strict adherence to the order of preference.

"Least intrusive facility" means that the proposed minor communication utility and its associated equipment, including but not limited to additions to existing structures, new structures, poles, wireless antennae and conduit, must be designed and placed in a manner that will result in the least amount of visual and neighborhood character impacts. Potential impacts may include but will not be limited to aesthetics, height and bulk impacts, and commercial intrusion. Except deviations as allowed by the Director, the proposed minor communication utility must comply the following order of preference:

- a. City Light transmission tower*
- b. Water tower*
- c. Rooftop or facade of a nonresidential structure*
- d. Rooftop or facade of a residential structure*
- e. Monopole on a nonresidential lot*

f. Utility pole

The Director may allow a deviation from the order of preference, including the allowance of other placement locations not contained in the order of preference, provided that the Director finds that such a deviation would result in a less intrusive facility than would otherwise be provided under strict adherence to the order of preference.

The proposal is located within an L-3 zone on an arterial street and the minor telecommunication equipment will be located on an apartment building. The applicant must consider a site which is the “least intrusive location” located on the “least intrusive facility” while also being able to “effectively provide telecommunication services”. The applicant has provided analysis on the least intrusive location and facility and indicates the site is the least intrusive facility and location within the geographic area acceptable to provide service to the proposed coverage area. This conclusion was based on the fact the surrounding areas are zoned SF 7200 and L-3 and developed with single-family and multi-family structures.

The antennas, dishes and equipment cabinet will be completely wrapped by a camouflaging shroud. The shroud is designed to match the look of the stair penthouse. An acoustical Report dated March 22, 2006 from Alan Burt was submitted indicating the noise associated with the one equipment cabinet located on the rooftop will be within code requirements. Traffic impact is not anticipated other than one service visit per month. The proposal would be compatible with uses allowed in the zone, and since no housing or structure will be removed, the proposal will not result in displacement of residential dwelling units. As proposed, the minor communications utility will not constitute a commercial intrusion that will be substantially detrimental to the residential character of the surrounding neighborhood.

2. *The visual impacts that are addressed in section 23.57.016 shall be mitigated to the greatest extent practicable.*

The applicant has designed the size, shape and materials of the proposed utility to minimize negative visual impacts on adjacent or nearby residential areas. The antennas, dishes and equipment cabinet will be completely wrapped by a camouflaging shroud. The shroud is designed to appear as part of the stairway penthouse on top of the building. As proposed, the visual impacts related to the minor communications utility have been mitigated to the greatest extent practicable.

3. *Within a Major Institution Overlay District, a Major Institution may locate a minor communication utility or an accessory communication device, either of which may be larger than permitted by the underlying zone, when:*

- a. the antenna is at least four hundred feet (400') from a MIO boundary; and*
- b. the antenna is substantially screened from the surrounding neighborhood's view.*

The proposed site is not located within a Major Institution Overlay; therefore, this provision is not applicable.

4. *If the minor communication utility is proposed to exceed the zone height limit, the applicant shall demonstrate that the requested height is the minimum necessary for the effective functioning of the minor communication utility.*

The antennas, dishes and equipment cabinet are proposed to be located on top of the stair penthouse on the roof of an apartment building. The apartment building is located within an L-3 zone with a 30-foot height limit; the structure is approximately 44-foot 6-inches in height with the stair penthouse extending an additional two feet more. The antennas, dishes and equipment cabinet will be completely enclosed within a camouflaging shroud which will extend an additional 6 feet 10 inches above the roofline for a maximum height of 51 feet and 4 inches above grade. The applicant claims the proposed height of the antennas is the minimum necessary to effectively provide service to the proposal area. The applicant supported this claim by providing a propagation map displaying the coverage area with and without the subject site in the current network configuration. Additionally, a letter from Thomas Tran, dated July 14, 2006, indicated if the antennas and dishes were located at a lower elevation point, the surrounding buildings and trees would cause significant obstructions. The additional height above the zone development standard is the minimum necessary for the effective function of the minor communication utility.

5. *If the proposed minor communication utility is proposed to be a new freestanding transmission tower, the applicant shall demonstrate that it is not technically feasible for the proposed facility to be on another existing transmission tower or on an existing building in a manner that meets the applicable development standards. The location of a facility on a building on an alternative site or sites, including construction of a network that consists of a greater number of smaller less obtrusive utilities, shall be considered.*

The proposed minor communication utility is not proposed to be a new freestanding transmission tower. Therefore, this provision does not apply.

6. *If the proposed minor communication utility is for a personal wireless facility and it would be the third separate utility on the same lot, the applicant shall demonstrate that it meets the criteria contained in subsection 23.57.009 A. except for minor communication utilities located on freestanding water tower or similar facility.*

The proposed minor communication utility is the first personal wireless facility on the site; therefore, this provision does not apply.

DECISION - ADMINISTRATIVE CONDITIONAL USE PERMIT

This application to install a minor communication utility in a Single family zone, which exceeds the height limit of the underlying zone, is **CONDITIONALLY APPROVED**.

ANALYSIS - SEPA

The initial disclosure of the potential impacts from this project was made in the environmental checklist prepared by the applicant on March 28, 2006, and supplemental information in the project file submitted by the applicant. The information in the checklist, supplemental information, and the experience of the lead agency with review of similar projects forms the basis for this analysis and decision.

The SEPA Overview Policy (SMC 25.05.665) clarifies the relationship between codes, policies, and environmental review. Specific policies for each element of the environment, and certain neighborhood plans and other policies explicitly referenced may serve as the basis for exercising substantive SEPA authority. The Overview Policy states, in part, *"Where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation,"* subject to some limitations. Under such limitations or circumstances (SMC 25.05.665 D), mitigation can be considered. Thus, a more detailed discussion of some of the impacts is appropriate. Short-term and long-term adverse impacts are anticipated from the proposal.

Short-term Impacts

The following temporary construction-related impacts are expected: 1) decreased air quality due to increased dust and other suspended particulates from building activities; 2) increased noise and vibration from construction operations and equipment; 3) increased traffic and parking demand from construction personnel; 4) blockage of streets by construction vehicles/activities; 5) conflict with normal pedestrian movement adjacent to the site; and 6) consumption of renewable and non-renewable resources. Although not significant, the impacts are adverse and certain mitigation measures are appropriate as specified below.

City codes and/or ordinances apply to the proposal and will provide mitigation for some of the identified impacts. Specifically, these are: 1) Street Use Ordinance (watering streets to suppress dust, obstruction of the pedestrian right-of-way during construction, construction along the street right-of-way, and sidewalk repair); and 2) Building Code (construction measures in general). Compliance with these applicable codes and ordinances will be adequate to achieve sufficient mitigation and further mitigation by imposing specific conditions is not necessary for these impacts. The proposal is located within residential receptors that would be adversely impacted by construction noise. Therefore, additional discussion of noise impacts is warranted.

Construction Noise

The SEPA Policies at SMC 25.05.675 B allow the Director to limit the hours of construction to mitigate adverse noise impacts. Pursuant to this policy and because of the proximity of neighboring residential uses, the applicant will be required to limit excavation, foundation, and external construction work for this project to non-holiday weekdays between 7:30 a.m. and 6:00 p.m. It is also recognized that there are quiet non-construction activities that can be done at any time such as, but not limited to, site security, surveillance, monitoring for weather protection, checking tarps, surveying, and walking on and around the site and structure. These types of activities are not considered construction and will not be limited by the conditions imposed on this Master Use Permit.

Long-term Impacts

Long-term or use-related impacts are also anticipated, as a result of approval of this proposal including: increased traffic in the area and increased demand for parking due to maintenance of the facility; and

increased demand for public services and utilities. These impacts are minor in scope and do not warrant additional conditioning pursuant to SEPA policies.

Environmental Health

The Federal Communications Commission (FCC) has pre-empted state and local governments from regulating personal wireless service facilities on the basis of environmental effects of radio frequency emissions. As such, no mitigation measures are warranted pursuant to the SEPA Overview Policy (SMC 25.05.665).

The applicant has submitted a “Statement of Federal Communication Commission Compliance for Personal Wireless Service Facility” and an accompanying “Affidavit of Qualification and Certification” for this proposed facility giving the calculations of radio frequency power density expected from this proposal and attesting to the qualifications of the Professional Engineer who made this assessment. This complies with the Seattle Municipal Code Section 25.10.300 that contains Electromagnetic Radiation standards with which the proposal must conform. The Department’s experience with review of this type of installation is that the EMR emissions constitute a small fraction of that permitted under both Federal standards and the standards of SMC 25.10.300 and therefore, pose no threat to public health. Warning signs at every point of access to the transmitting antenna shall be posted with information of the existence of radiofrequency radiation.

Summary

In conclusion, several effects on the environment would result from the proposed development. The conditions imposed at the end of this report are intended to mitigate specific impacts identified in the foregoing analysis, to control impacts not adequately regulated by codes or ordinances, per adopted City policies.

DECISION - SEPA

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirements of the State Environmental Policy Act (RCW 43.21C), including the requirement to inform the public agency decisions pursuant to SEPA.

- [X] Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21C.030 2c.
- [] Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030 2c.

CONDITIONS - ADMINISTRATIVE CONDITIONAL USE

1. The owner(s) and/or responsible party(s) shall ensure the proposed shroud around the antennas and dishes will match the color of other rooftop features.
2. The owner(s) and/or responsible party(s) shall ensure the proposed shroud will visually screen the antennas and dishes for the life of the project.

CONDITION - SEPA

During Construction

The following condition to be enforced during construction shall be posted at the site in a location visible and accessible to the public and to construction personnel from the street right-of-way. The condition shall be printed legibly on placards available from DPD, shall be laminated with clear plastic or other weatherproofing material, and shall remain in place for the duration of the construction.

3. The applicant will be required to limit the hours of construction activity not conducted entirely within an enclosed structure to non-holiday weekdays between 7:30 a.m. and 6:00 p.m. (Work would not be permitted on the following holidays: New Years Day, Martin Luther King Jr.'s Day, Presidents' Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Day following Thanksgiving Day and Christmas Day.)

Signature: _____ (signature on file) Date: August 31, 2006

Mark Taylor, Land Use Planner
Department of Design Planning & Development

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